IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.6237 of 2007
Date of Decision: 27.4.2007

Desh Raj and others

Petitioners

versus

State of Haryana and others

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MS. JUSTICE RAJESH BINDAL

Present: Shri N.D.Achint, Advocate for the petitioners

Jasbir Singh, J. (Oral)

The petitioners, by filing this writ petition, have prayed that orders Annexures P/10 and P/11 dated 16.8.2005 and 13.12.206 respectively, be quashed, having been passed contrary to the evidence on record and provisions of Punjab Village Common Lands (Regulation) Act, 1961 (as applicable in Haryana) (in short, the Act).

It is apparent from the records that at an earlier point of time, the respondent-Gram Panchayat filed an application against the petitioners under Section 7(2) of the Act, for their ejectment from the land, in dispute. That application was allowed vide order dated 13.12.2000. The petitioners went in appeal, which was dismissed vide order dated 23.4.2001. They also failed in revision, which was dismissed on 16.4.2002. Thereafter, the petitioners filed CWP No.14067 of 2002, against orders, referred to above, which was dismissed as withdrawn on 4.9.2002. The order reads thus:-

> *"States that this petition may be dismissed as withdrawn so that the petitioners are able to filed a title suit under Section 13-A of the Punjab Village Common Lands (Regulation) Act, 1961.*

In view of the statement made by the counsel, this petition is dismissed as withdrawn."

Order passed by this Court clearly indicates that no liberty was granted to the petitioners, to file a title suit. Contention was noticed and the petitioners were allowed to withdraw that writ petition. The petitioners, thereafter, filed a title suit under Section 13-A of the Act, which was dismissed vide order Annexure P/10. They also lost in appeal on 13.12.2006. The Courts below, while dismissing their title suit, have specifically observed that in view of provisions of Section 13-A of the Act, once proceedings under Section 7(2) of the Act have become final, it is not open to any individual, to file a title suit. To the above said finding given, counsel for the petitioners has failed to show us anything to the contrary. Otherwise also, on merits, it has been found, as a matter of fact, that the land was earlier recorded as *Shamlat Deh* and subsequent thereto, its ownership was transferred to the Gram Panchayat. It has also come on record that they petitioners have illegally occupied the same. In view of findings given by the Collector in order dated 16.8.2005 in sub paras 1 to 4, we feel that no case is made out for interference. Contention of counsel for the petitioners that against ejectment order passed, writ petition filed by one of the co-sharers is pending, has no relevancy so far as the facts of this case are concerned. Qua the petitioners order under Section 7(2) of the Act, has become final and on the basis of pendency of that writ petition, at the instance of some co-sharers, especially, when the petitioners got their writ petition as withdrawn, no benefit can be given to the petitioners.

Dismissed.

(Jasbir Singh)
Judge

April 27, 2007 **(Rajesh Bindal)**
gk **Judge**